

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ALBERT L. MOON,

Defendant-Appellant.

UNPUBLISHED
November 3, 2000

No. 215828
Wayne Circuit Court
LC No. 98-003896

Before: Wilder, P.J., and Smolenski and Whitbeck, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of fourth-degree criminal sexual conduct (CSC IV), MCL 750.520e(1)(d); MSA 28.788(5)(1)(d). Defendant was sentenced to 139 days in jail with credit for time served, and two years' probation for his conviction. Defendant appeals as of right. We affirm.

The sole issue raised by defendant on appeal is that the prosecutor failed to present sufficient evidence to support his CSC IV conviction. We disagree. When determining whether sufficient evidence has been presented to sustain a conviction, we examine the evidence in a light most favorable to the prosecution to determine whether any rational trier of fact could find that the essential elements of the crime were proved beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992). Circumstantial evidence and reasonable inferences that arise therefrom may be sufficient to prove the elements of the offense. *People v Noble*, 238 Mich App 647, 655; 608 NW2d 123 (1999).

Defendant was convicted of fourth-degree criminal sexual conduct under MCL 750.520e(1)(d); MSA 28.788(5)(1)(d), which states:

(1) A person is guilty of criminal sexual conduct in the fourth degree if he or she engages in sexual contact with another person and if any of the following circumstances exists:

* * *

(d) That other person is under the jurisdiction of the department of corrections, and the actor is an employee or a contractual employee of, or a volunteer with, the department of corrections who knows that the other person is under the jurisdiction of the department of corrections.

The evidence at trial showed that, between September and October of 1997, while the complainant was an inmate at the Scott Correctional Facility, she was sexually assaulted on two separate occasions by defendant, who was working as a corrections officer at the facility. The complainant testified that, on the first occasion, defendant approached her in the laundry room of the facility and fondled her breasts. The complainant further testified that about a week or two later, defendant entered the complainant's room during a lockdown, fondled her breasts, and proceeded to have intercourse with her while she was lying on the floor on her back facing him. The complainant testified that she did not tell anyone about either of these incidents until after she was transferred to a different facility where she felt protected because she feared retaliation from defendant and other officers at the facility. The complainant also stated that she did not feel that her word would be believed over defendant's word.

Defendant essentially challenges the trial court's credibility determinations of the witnesses; however, questions of credibility are left to the trier of fact and will not be resolved anew on appeal. *People v Avant*, 235 Mich App 499, 506; 597 NW2d 864 (1999). In this case, the trial court had the opportunity to hear and observe the witnesses' testimony and assess the weight to be afforded to the evidence. Contrary to defendant's contentions that the complainant's testimony was unreliable, the trial court expressly found the complainant credible and her testimony uncontroverted. Viewing the evidence in a light most favorable to the prosecution, we find that the prosecution presented sufficient evidence to support defendant's CSC IV conviction.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Michael R. Smolenski
/s/ William C. Whitbeck